In The United States Patent And Trademark Office. Before the Trademark Trial and Appeal Board

In re registration of

Registration #: 4164,790

Mark: Adam Loophole Presents Rot Apparel

TTAB

Registration Date: June 26 2012

Republic of Texas Biker Rally, Inc: Petitioner

Vs

Peter C. Ogudo, Registrant/ Respondent

#76701933

Cancellation # 92056510

RESPONDENT'S RESPONSE TO PETITIONER'S REQUEST FOR FINAL DEFAULT JUDGEMENT

Respondent in this case respectfully submit this response to the petitioner's August 15th 2013 filing, which he styles as Request for default judgment. No basis exists to enter a default judgment because respondent's answer has affirmed or denied petitioner's allegations in prior pleadings. Petitioner, unfortunately has elected to play the role of both litigant and adjudicator same time.

Respondent do not concede any allegation or argument or for that matter statement of fact in petitioner's pleadings and also hereby opposes his request for relief of cancellation to the extent it would deny respondent his duly registered trademark. This case should be tried on the merits and not on petitioner's name calling or belittling language. Given petitioner's lack of his inability to prove his case and his continued reliance on harassment and constant frivolous motions to suit his one –sided view of this case, no need exists to address the particulars underlying petitioner's request.

Respondent hereby address the particulars of petitioner's request, and prays this board to deny request for the several reasons:

First, respondent has responded to petitioner's allegations and also followed rules of notice by duly serving petitioner which he received by US postal mail service. And yet, petitioner has continued to portray respondent's pro se status as something of a stigma to the real issues of this case and the need to try this case on the merits. As a pro se, respondent has done all within his powers, ability and knowledge to answer to petitioner's allegations, by for example; admitting or denying as the case arises. Respondent also, denies prior knowledge of petitioner's case law that (a) speaks for itself and leaves issue of admittance into evidence or striking denial of it to this honorable board or (b) refers this board to the aforementioned case(s). Additionally, respondent has not shown any delay or contumacious conduct as well (see Silas V. Sears, Roebuck & co, Inc 586 f.2d 382, 5th circuit 1978). Petitioner instead has continued to erect unnecessary procedural barriers in this case and is trying to hold respondent to same standard as trained practitioners (See Kilgo v. Ricks 983 f.2d 189, 193-94, 11th circuit 1993). Once

respondent has answered, a default judgment therefore should not be the right course to pursue. Petitioner instead has continued to impute willfulness into the merits of this case where none has existed, and yet he has continued to play guess work and relying heavily on hypothetical argument. And, where allegations are admitted or denied, respondent has given (though petitioner may not like this frame work) examples regarding a denial or admission to show respondent's reason d'état.

The FRCP (b) (2) states that "a denial must fairly respond to the substance of the allegation". An addition of an averment of a fact as part of an answer does not render the answer unwholly. The FRCP neither permits nor prohibits this practice. Respondent has negatively pleaded by denial a lack of knowledge or information sufficient to form a belief about the truth of petitioner's allegations. FRCP 8(b) (5) & 11(b). As per petitioner's reference to public record matters such as office actions and court judgment, respondent has no knowledge or information sufficient to form a belief they have relevance to cancellation of a legally registered trademark belonging to respondent. Or, alternatively, even if they do, the fact finder has the powers to make that decision. And petitioner should leave it at that.

As per existence of ROT BIKERS or ROT RALLY and the like, there's no doubt they have been duly registered by USPTO, and each mark also granted registration numbers just as respondent's mark. Petitioner's reference to distinctiveness of ROT marks is by and large separate and different as well from respondent's distinct marks. The aforementioned ROT marks belonging to petitioner as enumerated by Federal court are distinct as to their respective names, as against 3rd parties using those names to pass off or deceive or confuse their products with petitioners. Respondent has not done any of those. See also, respondent's defenses to petitioner's allegations as to likelihood of confusion and defenses to dilution for obvious distinctions between both marks. And yet, petitioner continues to rely heavily on office action that, even if it exists, still has no controlling effect on merits of this case.

For the foregoing reasons, petitioner's request for default judgment should be declined in all respects.

Respectfully submitted,

Peter Ogudo, in pro se

By _____

P.O. Box 2574,

Culver City, CA 90231

1310 766 7867 or pcogudo@hotmail.com

Dated 8/27/13

Certificate of Service

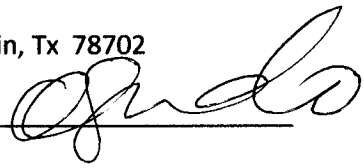
I hereby certify that on 8/27/ 2013, I served this response to petitioner's request for final default judgment by mailing a copy thereof by registered mail, return receipt requested, addressed to petitioner's attorney's office of record as follows:

Carl F. Schwenker,

Law Offices of Carl Schwenker

1101 East 11th Street,

Austin, Tx 78702

By 

Peter Ogudo